

By Mr. O'Flaherty of Chelsea, petition of Eugene L. O'Flaherty, Christopher G. Fallon and Gale D. Candaras relative to the statute of limitations in certain court actions involving zoning violations. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand and Three.

AN ACT LEGITIMIZING STRUCTURES AFTER SIX OR TEN YEARS OF CONTINUOUS USE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 Chapter 40A of the General Laws is hereby amended by
2 striking out the second paragraph of section 7 and inserting in
3 place thereof the following paragraph:—
4 No local zoning law shall provide penalty of more than three
5 hundred dollars per violation; provided, however, that nothing
6 herein shall be construed to prohibit such laws from providing
7 that each day such violation continues shall constitute a separate
8 offense. No action, suit or proceeding shall be maintained in any
9 court, nor any administrative or other action taken to recover a
10 fine or damages or to compel the removal, alteration, or relocation
11 of any structure or part of a structure or alteration of a structure by
12 reason of any violation of any zoning bylaw or ordinance except
13 in accordance with the provisions of this section, section eight and
14 section seventeen; provided, further, that if real property has been
15 improved and used in accordance with the terms of the original
16 building permit issued by a person duly authorized to issue such
17 permits, no action, criminal or civil, the effect or purpose of
18 which is compel the abandonment, limitation or modification of
19 the use allowed by said permit or the removal, alteration or relo-
20 cation of any structure erected in reliance upon said permit by
21 reason of any alleged violation of the provisions of this chapter or
22 of any ordinance or bylaw adopted thereunder, shall be main-

23 tained, unless such action, suit or proceeding is commenced and
24 notice thereof recorded in the registry of deeds for each county or
25 district in which the land lies, or, in the case of registered land
26 such notice is filed in the registry district in which the land lies,
27 within six years next after the commencement of the alleged vio-
28 lation of law; and provided, further that no action, criminal or
29 civil, the effect or purpose of which is to compel the removal,
30 alteration, or relocation of any structure by reason of any alleged
31 violation of the provisions of this chapter, or any ordinance or by-
32 law adopted thereunder, or the conditions of any variance or
33 special permit, shall be maintained, unless such action, suit or pro-
34 ceeding is commenced and notice thereof recorded in the registry
35 of deeds for each county or district in which the land lies, or, in
36 the case of registered land such notice is filed in the registry dis-
37 trict in which the land lies, within ten years next after the com-
38 mencement of the alleged violation; and provided further that if
39 (a) real property has been improved by the erection of one or more
40 structures (which word shall include the singular thereof) thereon
41 and such structures have been in existence for a period of at least
42 ten years and (b) no notice of any action, suit or proceeding as to
43 any alleged violation of this chapter or of any ordinance or by-law
44 adopted thereunder as to such structures has been recorded in the
45 registry of deeds for the country or district in which the real estate
46 is located, or, in the case of registered land such notice is filed in
47 the registry district in which the land is located, within a period of
48 ten years from the date such structures were erected, such struc-
49 tures erected thereon shall, for zoning purposes, be deemed (x) to
50 be in compliance with the provisions of this chapter and any ordi-
51 nance or by-law adopted thereunder as they existed on the date
52 such structures were erected and (y) to be valid, legally noncon-
53 forming structures. Such notice shall include names of one or
54 more of the owners of record, the name of the person initiating the
55 action, and adequate identification of the structure and the alleged
56 violation.